



**STATE OF HAWAII
2011 REAPPORTIONMENT COMMISSION**

2011 NOTICE OF REAPPORTIONMENT COMMISSION MEETING

Date: Thursday, June 9, 2011
Time: 3:00 PM
Place: State Capitol, Conference Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

AGENDA

- I. Call to Order – Chair
- II. Roll Call and Determination of a Quorum
- III. Approval of Minutes for meeting of May 24, 2011
- IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item
- V. Reports from Advisory Councils to include:
 - What should be included in permanent resident population, whether we should include or exclude:
 - Non-resident military
 - Non-resident military dependents
 - Non-resident students
 - Sentenced Felons
 - Discussion and action, if appropriate, regarding single or multi member districts
 - Discussion and action, if appropriate, regarding canoe districts
- VI. Discussion and action, if appropriate, whether reapportionment and redistricting should start with existing legislative districts and their boundaries and adjustment of those boundaries to meet new population targets

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- VII. Discussion and action, if appropriate, regarding Constitutional and statutory criteria and technical specifications for public submission of proposed redistricting plans.
- VIII. Discussion and action, if appropriate, on status of work for Technical Committee
- IX. Discussion and action, if appropriate, of reapportionment and redistricting
- X. Discussion and action, if appropriate, of administrative matters
- XI. Executive Session

Pursuant to Haw. Rev. Stat. 92-5(a)(2) relating to filling staff positions as consideration of matters affecting privacy will be involved

- XII. Schedule future meeting dates
- XIII. Adjournment

THE COMMISSION MAY ELECT TO CONSULT WITH COUNSEL IN EXECUTIVE SESSION PURSUANT TO SECTION 92-5, HAW. REV. STAT. IF YOU REQUIRE SPECIAL ASSISTANCE OR AUXILIARY AIDS AND/OR SERVICES TO PARTICIPATE IN THE PUBLIC HEARING PROCESS OF THE ELECTIONS COMMISSION, PLEASE CONTACT THE OFFICE OF ELECTIONS AT LEAST 48 HOURS PRIOR TO THE HEARING SO ARRANGEMENTS CAN BE MADE. FOR FURTHER INFORMATION, PLEASE CALL THE OFFICE OF ELECTIONS AT 453-8683 OR 1-800-442-8683 FROM THE NEIGHBOR ISLANDS.

**STATE OF HAWAII
2011 REAPPORTIONMENT COMMISSION**

**MINUTES OF THE REGULAR MEETING OF THE
2011 REAPPORTIONMENT COMMISSION**

May 24, 2011
3:00 pm

State Capitol, Room 329
Honolulu, Hawaii 96813

Commissioners Present:

Victoria Marks, Chairperson
Calvert Chipchase, IV
Harold S. Masumoto
Elizabeth N. Moore
Dylan Nonaka
Lorrie Lee Stone
Anthony Takitani
Terry E. Thomason

Technical Support Staff Present:

Brian Aburano, Department of the Attorney General
Robyn Chun, Department of the Attorney General
Judy Gold, Office of Elections
Scott Nago, Office of Elections
Kristen Oka, Office of Elections
Carolyn Roldan, Office of Elections
David Rosenbrock, Office of Elections
Aaron Schulaner, Office of Elections
Lori Tomczyk, Office of Elections
Charles Wong, Office of Elections

Observers Present:

James Arakaki, Hawaii Advisory Council
Roderick Becker, WAM
Kat Brady, Community Alliance on Prisons
John Carroll
Christopher Chang, Maui Advisory Council
Keith Chow
Bart Dame

Dan Diffenderser
Roosevelt Freeman
Josh Frost, Progressive Democrats of Hawaii
JoAnne Georgi, Kauai Advisory Council
Kris Hanselman, UHPA
Ka'aina Hull, Kauai Advisory Council
Glenn Ida, Oahu Advisory Council
Royce Jones, ESRI
Representative Jo Jordan
Nathaniel Kinney, Oahu Advisory Council
B.J. Lamb, Hawaii Advisory Council
Michael Levine, Civil Beat
Nikki Love, Common Cause
Lynne Matusow, Downtown Neighborhood Board
G.A. Morris, Capitol Consultants of Hawaii
Will Nhieu, Office of Senator Donna Kim
Randall Nishimura, Kauai Advisory Council
John Radcliffe, Capitol Consultants of Hawaii
Janice Ringler, Common Cause
Fred Rohlfing, Maui Advisory Council
David Ross, Hawaii Advisory Council
Madge Schaefer, Maui Advisory Council
Senator Sam Slom
Amy Sojot, WAM
Alvin Tamashiro, DAGS-ASO
Melissa Vomvoris, Office of Senator Ihara

I. Call to Order

Chairperson Marks called the meeting of the 2011 Reapportionment Commission to order at 3:03 pm.

PROCEEDINGS

II. Roll Call and Determination of Quorum

Roll call was taken and all Commission members were present with the exception of Commissioner Hashimoto.

III. Approval of Minutes

Chairperson Marks asked for a motion to approve the minutes of the May 11, 2011 meeting. Commissioner Takitani moved and Commissioner Stone seconded the motion with no objections from the eight commissioners present. It was noted by Commissioner Moore that on page 3, Item V, the word "Council" should read as "Councils". There were no objections from the eight commissioners present and the minutes were approved as amended.

IV. Historical legal review of Hawaii reapportionment/redistricting by Brian P. Aburano, Deputy Attorney General – 2001 Reapportionment Commission

Deputy Attorney General Aburano, who was the legal counsel assigned to the 2001 Reapportionment, gave a brief historical legal review of Hawaii's reapportionment and redistricting. His presentation will be posted on the Office of Elections web page.

V. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Ms. Wood testified that she had difficulty confirming today's Commission meeting and asked that we allow the public to leave their contact information so that future meeting announcements can be sent to them. She is also asking that the Commission explore the possibility of airing the Commission meetings on public access channels and allow viewers to participate by phoning in their questions and concerns. Airing on public access channels will also allow viewers to tape the meetings if they are unable to view the meetings as they are being held.

Maui Advisory Council member Schaefer asked the Commission to consider scheduling the meetings at an earlier time since she encounters various challenges while traveling in from the outer island to attend the meetings. She felt that it would be very helpful for all Advisory Council members traveling in from the outer islands if the meetings were scheduled a little earlier.

Mr. Carroll testified that in 1980 he was disturbed by the one man one vote issue. As a result, the Travis v. State of Hawaii lawsuit was filed and prevailed before a three judge panel. It is his feeling that the Federal law,

with respect to multi member districts, is that there should be one man one vote. He believes strongly about the right to have knowledge of who your representative and senator is and the potential impact of plunking on elections. He stated that he will bring another lawsuit if the decision to go to multi member districts is made.

Maui Advisory Council member Rohlfing testified that the people were better served with multi member districts and asked the Commission to consider that when making decisions.

Mr. Diffenderser testified that he is against the testimony given by the Maui Advisory Council member. He felt that most people that worked during the day would be unable to attend earlier scheduled meetings.

Chairperson Marks asked the members of the Advisory Councils to introduce themselves to the Commission and audience. The Oahu Advisory Council reported that they held their first meeting and have chosen Michael Palcic as the Chairperson, Glenn Ida as the Vice Chairperson, Linda Smith as the Secretary, and Nathaniel Kinney as member. Their next meeting will be held at 1:00 pm on June 8th at the State Capitol.

VI. Reapportionment Project Staff Presentation

Project Manager Rosenbrock reported that the contract is approaching the signing stage, however, the emergency appropriation bill has not yet been signed.

The power point presentation given by Project Manager Rosenbrock and Mr. Jones from ESRI will be posted on the Office of Elections web page.

After the presentation, Commissioner Thomason asked when using the term "Total Non-Resident Military Dependents" when addressing the population data set under non-resident military, does DEERS report the dependents as being non-residents. Project Manager Rosenbrock answered yes. Model used to process data received will be broken down into four categories: non-resident military, non-resident military dependents, resident military and resident military dependents.

Commissioner Thomason also asked for clarification on whether military dependents, unless living overseas, are considered residents in the location that they are living in. Project Manager Rosenbrock responded

yes but noted that the Defense Manpower Data Center will not give exact local addresses since it is considered confidential information, they will only give information by zip codes. Because of this, they will be using the model to determine how the military population will be counted.

Commissioner Takitani asked if a different permanent population base can be used for the congressional redistricting. Project Manager Rosenbrock responded that for federal redistricting they must use the entire state population. For the legislative seats, the commission can define what the permanent resident population is. Those that do not meet the definition that is decided as the permanent resident base can be extracted.

Commissioner Takitani questioned if the 10% deviation was per district. Project Manager Rosenbrock responded that in 2001, a strict practice of staying within the 10% statewide deviation was maintained. Each island had one target population for the House and one target population for the Senate. While doing this, they found that the Island of Kauai was half a Senator short so they had to canoe a portion of Kauai with another island. The canoe district practice was not popular but had to be done in order to avoid under or over representation. The revised plan maintained a 10% deviation within each basic island unit.

VII. Discussion of the Reapportionment Advisory Councils role to include discussion of issues that may impact the work of the Commission

Commissioner Masumoto recommended that the Advisory Councils give input on single/multi member districts. Commissioner Nonaka noted that since the Commission needs to do decision making by June 14th, the Advisory Councils should meet and make recommendations and preferences on single/multi member districts and the resident population base.

Commissioner Stone has no issue with the recommendations made but would like to wait until the Commission receives the Attorney General's opinion regarding single/multi member districts.

Chairperson Marks expressed concern on when the Attorney General's opinion would be received and the timing of the Advisory Councils' meetings. Deputy Attorney General Chun indicated that she does not have a specific date identified but is continuing to work towards completing this opinion.

Chairperson Marks stated that the Advisory Councils should also provide input on whether the Commission should include or exclude non-resident military, non-resident military dependents, non-resident students and felons in the permanent resident population. Aliens are a non-issue because the data cannot be extracted since it's not on the census form.

Maui Advisory Council member Schaefer asked if the Office of Elections could provide for the Advisory Councils and the Commission, the factsheet provided during the 1991 General Election which addressed the issue of non-resident military not be considered as part of the permanent population. Ms. Schaefer noted that this issue was placed on the ballot as a Constitutional Amendment and was passed. She also stated that she had a copy of this page of the factsheet and a motion was made by Chairperson Marks that a copy of this page be provided to the Commission and the Advisory Councils. The motion was seconded by Commissioner Thomason and the motion carried with no objections from the eight commissioners present.

Commissioner Thomason requested from Project Manager Rosenbrock a rationale on what population is extracted and who would be included or excluded.

Kauai Advisory Council member Nishimura mentioned, in terms of the questions from the Reapportionment Commission, can there be a specific list of issues so the Advisory Councils' can address them at one time.

Ms. Wood mentioned there may be college students paying in-state tuition. Also, there are some military families living outside the base who possibly should be counted. If excluded from being counted, they would be under represented.

Commissioner Chipchase asked Project Manager Rosenbrock to clarify the distinction between the student information received from the University of Hawaii and the private universities. Project Manager Rosenbrock stated that the University of Hawaii does not provide a local address for its students. They provide the number of non-residents but no addresses. A request for a count and local addresses is being sent to the universities. The information will be available within 10 days to two weeks.

Chairperson Marks also made a motion that the Advisory Councils provide input to the Commission whether non-resident military, non-resident

military dependents, non-resident students and felons be included or excluded in the definition of permanent resident. Kauai Advisory Council member Randall Nishimura questioned if the felon population is the population that is incarcerated here or on the mainland. Project Manager Rosenbrock noted that the felon population living on the mainland is counted in the state that they are incarcerated and the felon population incarcerated here are included in our population. The motion was seconded by Commissioner Masumoto. The motion was then amended to include input from the Advisory Councils regarding single versus multi member districts. The amended motion carried with no objections from the eight Commissioners present.

VIII. Discussion and appropriate action, if necessary, on status of work for Technical Committee

Project Manager Rosenbrock suggested that the Technical Committee should meet very shortly after the contract is signed.

It is a concern of the Commission that the emergency appropriation bill has not yet been signed. There is ongoing communication with the Governor's Office regarding the signing of this bill.

In the interim, the Technical Committee will begin meeting. No meeting notice will need to be posted as long as there are no more than 4 commission members meeting.

Commissioner Thomason reiterated earlier comments regarding public access to Commission meetings. He made a motion that the Office of Elections go forward and contact Olelo regarding the possibility of televising Commission meetings. The motion was seconded by Chairperson Marks and carried with no objections from the eight Commissioners present.

IX. Discussion and appropriate action, if necessary, of administrative matters to include hiring of staff

Chairperson Marks stated that the Commission should go into executive session to discuss the hiring of staff.

X. Executive Session

Chairperson Marks moved for the Commission to go into executive session. Commissioner Takitani seconded the motion with no objections from the eight commissioners present.

The Commission resolved to executive session at 5:10 pm and reconvened in open meeting at 5:59 pm.

Reconvene of Meeting

Chairperson Marks noted that the Commission has made a decision on the staff that will be hired but will not announce the names until the positions are funded.

XI. Schedule future meeting dates

The meeting scheduled for June 9th at 3:00 pm will remain and if necessary, the meeting will be continued on June 15th at 10:00 am. A meeting is also scheduled for June 28th at 2:00 pm.

Agenda items will include:

- Reports from Advisory Councils to include:
 - What should be included/excluded in the permanent resident population base
 - Whether we should include or exclude non-resident military, non-resident military dependents, non-resident students, and felons.
 - Views on single and multi member districts
 - Discussion and appropriate action regarding canoe districts
- Discussion on whether the reapportionment and redistricting should start with existing legislative districts and their boundaries and adjust those boundaries to meet new population targets
- Discuss the work of the Technical Committee
- Discuss and take appropriate action if necessary on administrative matters

- Executive Session
- Set future meeting dates
- Discuss and take appropriate action if necessary of reapportionment and redistricting. This will be an ongoing agenda item.

XII. Adjournment

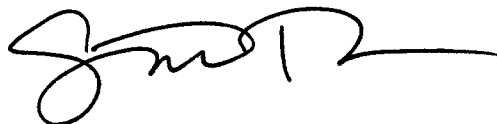
Commission Secretary Nago announced that the Kauai Advisory Council will meet on June 3rd on Kauai. The time and location of this meeting to be announced.

Chairperson Marks moved that the meeting be adjourned. Commissioner Nonaka seconded the motion with no objections from the eight commissioners present.

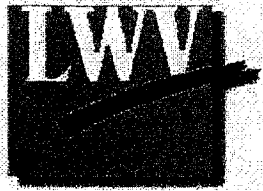
There being no further business, the meeting was adjourned at 6:05 pm.

Next meeting will be held at the State Capitol, Room 329 on June 9th at 3:00 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Nago', with a long horizontal line extending to the right.

Scott T. Nago
Chief Election Officer
Secretary to the Reapportionment Commission



THE LEAGUE OF WOMEN VOTERS OF HAWAII

The 2011 Reapportionment Commission.
Chair Judge Victoria Marks
June 9, 2011
State Capitol, Conference Room 329

Chair Judge Victoria Marks, members of the 2011 Reapportionment Commission.

My name is Jean Aoki, immediate past Legislative Liaison for the League of Women Voters of Hawaii. We first thank all of you for accepting this great responsibility of reapportioning the congressional districts and the State Senate and House of Representatives and then the redistricting which is more of a challenge. Yours is a task that is vital to the equal recognition and treatment of all of our citizens and other residents of our state.

Because your decisions will affect our citizens' responsibility of electing our government leaders who will be establishing the policies for our State in the coming years, it is of great interest to us, and we believe that we should jealously guard our rights and our powers and see to it that the processes involved fairly recognize voters' rights. This Commission is the first step in the process

Nation-wide the emphasis seems to be on legislatures manipulating the district lines to ensure that one or the other party controls more of the districts and/or that the incumbents are protected. Quoting our National League President, "Redistricting reform is an issue that goes to the heart of our democratic system of government. Representative democracy depends on the voters freely choosing their elected officials. When, instead, officials choose their voters, our system cannot work for long."

Hawaii seems to be one of the few states where the Legislature does not do the actual drawing of district lines but leaves it to a commission to do the work, whose members, nevertheless, are selected by both of our major parties which makes you a bipartisan commission, not a nonpartisan one. So our major request is that you recognize the need for transparency throughout this process to assure our citizens that indeed each one of their votes does count, and that the elections that follow are not the result of our incumbents having selected their constituents.

The League of Women Voters of Hawaii regrettably has not done any studies on the population base for reapportionment and redistricting, nor on the pros and cons of single-member and multi-member districts. However, I believe, we would probably lean toward the inclusion of as many residents as possible.

Military personnel and their families pose a special problem. The average length of a marine being stationed here is three years. In those three years, wives may find employment here, the children may attend our schools, and the families take advantage of our recreational activities. They do contribute toward food drives, and clean-up drives and become active parts of our communities. When they finally leave for other assignments, very often others come to take their places. The problem is their concentration in a few districts and the relatively huge fluctuation in the numbers of military personnel based in Hawaii at any given time, which does negatively affect the population deviation of the different districts. If these families were more evenly dispersed throughout the State, there would be no problem. This is not to say that they should not be considered in your deliberations on whether to include them in the population base.

As far as canoe districts are concerned, the 2001 Commission, we believe, settled on a workable and acceptable solution by not using the same target population for all of the counties but assigning each county with its own target population. My first thought was "Is this constitutional?" But I soon realized that nationwide, the target populations for congressional house districts are not identical for all states. The other accommodation was that of reconciling inequities of over representation and under representation in each county by accepting the situation where over representation in one house is matched by under representation in the other house.

After the first attempts at drawing the district lines in 2001, we were rather alarmed by some of the proposed districts, and did react rather sharply. However, my final report on the work of the 2001 Commission was complimentary after their hearings resulted in quite a few changes.

We again thank you for your willingness to contribute your time and efforts toward this important endeavor. And we thank you for this opportunity to present some of our thoughts.

June 9, 2011

Regarding apportionment counts for Hawaii

I am swayed by arguments to keep the state apportionment count in sync with the federal census and resulting congressional apportionment count taken as of April 1st, 2010.

In this “snapshot” of our population, one was counted as living here if one was sleeping here, working here, stationed here, going to school here, retired here, imprisoned here, etc.; if one displayed some permanence of residence and was not just “visiting.”

Most people instinctively respond that everyone should be counted. It’s a natural reaction emanating from a basic sense of fairness and without political calculation.

The census, being a snapshot of Hawaii’s population at a particular point in time recognizes that populations are always in flux, so a new count is taken every 10 years. It serves us well enough in determining legislative representation, despite whatever anomalies occur.

Those who desire a specific result are unpersuasive and transparently in favor of helping a particular constituency. People who live here should be represented, regardless of political consequences.

Consider:

- If one lives here, whether stationed, schooled or jailed, one is affected by laws enacted here. If a proposed law affects a “disenfranchised” community, that group can safely be ignored if it lacks representation. Individuals counted as living here for the census are not counted as living elsewhere. They are entitled to representation in the legislature.
- They pay taxes here. They attend schools here. They travel the roads, enjoy the parks, beaches and other recreational facilities. They dine out. They go to libraries and movie theaters. They participate in civic life and community events.
- It is said that many do not vote here. Well, many born, raised, schooled, and employed here have never registered to vote, have never voted and never will vote. Some never vote for philosophical reasons; some to escape tax authorities; some to escape jury service. These individuals are counted.
- Furthermore, the “extraction” of certain persons from the census block counts is an “uncertain” proposition and leads to arbitrary and inexact results.
- Regarding some absolute standard of permanence of residence, iwi and ashes notwithstanding, we’re all here temporarily.

s/ Michael G. Palcic

Michael G. Palcic • 1907 St. Louis Dr. • Honolulu, HI 96816 • 921-8294

2011 ADVISORY COUNCIL OF KAUAI
RESIDENCY RECOMMENDATIONS TO THE
2011 REAPPORTIONMENT COMMISSION

June 6, 2011

The Kauai Island Advisory Council met on June 3, 2011, and submits its recommendations on the following items requested by the Commission:

- A. *Inclusion or exclusion of non-resident military in the permanent resident population for purposes of re-districting.*

It is the recommendation of the Kauai Advisory Council that the non-resident military population **NOT** be counted in the permanent resident population for purposes of re-districting. Non-residents are often registered and may vote in another State. They are not eligible to vote in our State. If they are not eligible to vote, they should not be counted for districting purposes. They do not pay taxes with the exception of General excise taxes. Creating or overloading a Representative/Senatorial District by the presence of service personnel is unfair to the residents that pay taxes and do not have such personnel in their districts. Inclusion of these personnel has a disproportionate disadvantage to rural communities on the neighbor islands. As an example, the personnel at some of the larger military facilities on Oahu may actually be more than the entire island populations of Niihau, Lanai and Molokai. Creating more districts simply as a result of having military personnel on Oahu who cannot vote is unfair to tax paying residents elsewhere.

- B. *Inclusion or exclusion of non-resident military dependents in the permanent resident population for purposes of re-districting.*

It is the recommendation of the Kauai Advisory Council that the non-resident military population **NOT** be counted in the permanent resident population for purposes of re-districting. As with the military personnel, the non-resident dependents may vote in another State and do not pay taxes with the exception of General excise taxes. They still require State and County services. Creating or overloading a Representative/Senatorial District by the presence of service personnel dependents is unfair to the residents that pay taxes and do not have such personnel in their districts. Inclusion of these dependents has a disproportionate disadvantage to rural communities on the neighbor islands.

- C. *Inclusion or exclusion of non-resident students in the permanent resident population for purposes of redistricting.*

It is the recommendation of the Kauai Advisory Council that the non-resident student population **NOT** be counted in the permanent resident population for purposes of re-districting. Like their military counter parts, non-residents are eligible

and often do vote in their state of residence. They do not pay taxes, yet require State and County services. As such, they should **NOT** be counted in the permanent resident population for re-districting.

D. Inclusion or exclusion of convicted felons in the permanent resident population for purposes of re-districting.

It is recommended that felons convicted and incarcerated in the State of Hawaii should **NOT** be counted in the permanent resident population. It is further recommended that residents convicted of a felony and incarcerated outside the State should NOT be counted in the permanent resident population for purposes of re-districting.

E. Discussion and recommendations on multi member districts.

While there are concerns regarding the desirability of multi member districts, particularly with respect to potential gerrymandering, the Council makes no recommendation on this at this time.

F. Discussion and recommendations regarding canoe districting.

The Council strongly recommends **AGAINST** the use of canoe districting. We find that the present arrangement of giving up a Senatorial seat to keep a Representative seat is preferable to the use of a canoe district. Our island's past experience with the use of canoe districts has shown that representation in this manner does not work.

G. Miscellaneous

The Council respectfully recommends that the Commission adhere to Section 4, Article IV of the State Constitution which allocates **two** Senators and **three** representatives to each basic Island unit. A copy of the pertinent section is attached for reference. This should also be given due consideration prior to creating a canoe district for the outer islands.

We appreciate the opportunity to submit our recommendations and respectfully ask that they be given due consideration as you move forward in you deliberations.

Respectfully Submitted:

Randall Nishimura, Chairperson
2011 Kauai Advisory Council

**STATE CONSTITUTION
THE CONSTITUTION OF THE STATE OF HAWAII
As Amended and in Force January 1, 2000**

**ARTICLE IV
REAPPORTIONMENT**

REAPPORTIONMENT YEARS

Section 1. The year 1973, the year 1981, and every tenth year thereafter shall be reapportionment years. [Add Const Con 1978 and election Nov 7, 1978]

REAPPORTIONMENT COMMISSION

Section 2. A reapportionment commission shall be constituted on or before May 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected, promptly after selection, shall be certified by the selecting authorities to the chief election officer and within thirty days thereafter, shall select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall serve as chairperson of the commission.

Each of the four officials designated above as selecting authorities for the eight members of the commission, at the time of the commission selections, shall also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.

A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.

The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

Not more than one hundred fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts which shall become law after publication as provided by law. Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law.

No member of the reapportionment commission or an apportionment advisory council shall be eligible to become a candidate for election to either house of the legislature or to the United States House of Representatives in either of the first two elections under any such reapportionment plan.

Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.

The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties. [Add Const Con 1978 and election Nov 7, 1978; am HB 2322 (1992) and election Nov 3, 1992]

CHIEF ELECTION OFFICER

Section 3. The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting. [Add Const Con 1978 and election Nov 7, 1978]

APPORTIONMENT AMONG BASIC ISLAND UNITS

Section 4. The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, using the total number of permanent residents in each of the basic island units and computed by the method known as the method of equal proportions; except that no basic island unit shall receive less than one member in each house. [Add Const Con 1978 and election Nov 7, 1978; am HB 2327 (1992) and election Nov 3, 1992]

MINIMUM REPRESENTATION FOR BASIC ISLAND UNITS

Section 5. The representation of any basic island unit initially allocated less than a minimum of two senators and three representatives shall be augmented by allocating thereto the number of senators or representatives necessary to attain such minimums which number, notwithstanding the provisions of Sections 2 and 3 of Article III shall be added to the membership of the appropriate body until the next reapportionment. The senators or representatives of any basic island unit so augmented shall exercise a fractional vote wherein the numerator is the number initially allocated and the denominator is the minimum above specified. [Am Const Con 1968 and election Nov 5, 1968; ren Const Con 1978 and election Nov 7, 1978]

APPORTIONMENT WITHIN BASIC ISLAND UNITS

Section 6. Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall

Proposed Hawaii Reapportionment Commission Public Plan Submission Guidelines

1) Population Base

Each submitted plan shall use the same population base as that used by the Commission for each respective plan. Congressional plans shall use the 2010 U.S. Census PL 94-171 redistricting data population base as required by the Federal government. State Senate and State House plans shall use the 2010 Hawaii Permanent Resident reapportionment/redistricting data population base as determined by the Commission.

2) Population Geography

Each submitted plan shall use the same population geography as that used by the Commission. Congressional, State Senate and State House plans shall use the 2010 U.S. Census PL 94-171 TIGER/Line geography.

3) Apportioned Seats

Each submitted plan shall use the same apportioned seats as that used by the Commission for each respective plan. Congressional plans shall use the apportionment of two seats statewide as required by the Federal government. State Senate and State House plans shall use the apportioned seats as determined by the Commission.

4) Minimum Geographic Area

Each submitted plan shall assign a district designation to all census blocks within a minimum geographic area. Congressional plans shall assign districts to all census blocks within the State of Hawaii. State Senate and State House plans shall assign districts to all census blocks within one or more Basic Island Units. Basic Island Units, as defined by the State of Hawaii Constitution, are 1) Hawaii County, 2) Maui County (including Kalawao County), 3) City and County of Honolulu, and 4) Kauai County. Ocean blocks with no population may be left unassigned.

5) Block/District Assignment File Formats

Each submitted plan shall include a text file containing complete block/district assignments in one of four formats – BDC, BDS, DBC or DBS.

BDC - Block then District, comma separated	example:	150070401031000,15 150070401031001,15
BDS - Block then District, space separated	example:	150070401031000 15 150070401031001 15
DBC – District then Block, comma separated	example:	15,150070401031000 15,150070401031001
DBS – District then Block, space separated	example:	15 150070401031000 15 150070401031001

6) Ancillary Information

Each submitted plan may include ancillary information to help the Commission understand the plan. Information on district populations and deviations will help confirm that the submitted block/district assignment file has been imported correctly. Maps, shapefiles and descriptive text can also be submitted. Maps shall be in PDF or JPG format. Shapefiles shall be in Esri shapefile format. Descriptive text shall be in PDF or Word format.

7) Submission Zip File

All information, block/district assignment file and any ancillary information, shall be submitted in a single zipped file.

8) Hawaii Redistricting Online Submission

Users of the Hawaii Redistricting Online application may have the option of submitting a plan directly from the application instead of the text file export/zip file method described in Guidelines #5 through #7 above. Plans submitted directly using the Hawaii Redistricting Online application shall still adhere to Guidelines #1 through #4 above.

draft #7 June 8th 2:30 pm

FACT SHEET

PROPOSED AMENDMENTS TO THE HAWAII STATE CONSTITUTION TO APPEAR ON THE 1992 GENERAL ELECTION BALLOT

The following is provided by the House Majority Staff Office of the Hawaii State Legislature for your information. Also attached is a facsimile ballot containing the proposed amendments as they will appear on the 1992 General Election ballot.

GENERAL INFORMATION

Our State constitution, like other democratic constitutions, ensures objectives such as procedural stability, representation of the people, openness and disclosure, an equal balance of power, and accountability. To maintain these objectives, our State constitution cannot be revised or amended unless amendments are proposed by a constitutional convention or by the legislature.

All constitutional amendments proposed by the legislature must be adopted by two-thirds vote in each house, entered in the legislative journals, and published once in each of the four successive weeks in at least one newspaper of general circulation, within two months immediately preceding the next general election.

At the general election, the proposed constitutional amendments are submitted to the electorate for ratification or rejection. This election year, the electorate will be asked to ratify or reject four proposed constitutional amendments to be printed on the November 3 ballot. The four items will address issues involving reapportionment and the oath of office requirement.

QUESTION #1: CONSTITUTING THE REAPPORTIONMENT COMMISSION

"Shall the reapportionment commission be constituted on or before May 1 instead of March 1 each reapportionment year?"

As a matter of procedure as well as for administrative purposes, the Legislature has also proposed an amendment asking the voters if the date for constituting the Commission can be moved from March 1 to May 1 to assist the Commission in performing its duties.

The May 1 date would allow the Lieutenant Governor's staff adequate time to obtain U.S. census data, make necessary adjustments to convert the data into the population base employed by the Commission, and complete other preliminary tasks before the Commission is constituted.

**1992 PROPOSED AMENDMENTS TO THE
HAWAII STATE CONSTITUTION
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QUESTION #2: OATH OF OFFICE

"Shall the oath of office be reserved for the governor, the lieutenant governor, members of both houses of the legislature, members of the board of education, the members of the national guard, State or county employees who possess police powers, district court judges, and all office holders whose appointment requires the consent of the senate?"

The University of Hawaii brings together scholars from many different nations and cultures. Some of the faculty are not citizens of the United States. The amendment would exclude certain public officers, including University of Hawaii faculty, from the oath of office requirement. In order to enable the University of Hawaii to hire and retain the best qualified faculty for its students, the Legislature has proposed a constitutional amendment to clarify which eligible public officers are subject to the oath of office requirement. The Legislature has proposed that the Governor, the Lieutenant Governor, members of both Houses of the Legislature, members of the Board of Education, the members of the National Guard, State or county employees who possess police powers, district court judges, and all office holders whose appointment requires the consent of the senate including judges or justices appointed to serve on the State Supreme Court or at the Intermediate Appellate Court and Circuit Court levels be subject to the oath of office requirement.

QUESTION #3: ELIMINATING HOLDOVER SENATORS

"Shall the holdover senator provision be repealed so that the terms of all senators will end at the general election at which a new reapportionment plan becomes effective and the assignment of staggered terms is recomputed as of that general election?"

Once the new reapportionment plan devised by the 1991 Commission takes effect, there will be some communities in the State that will go six years between senatorial elections. Moreover, constituents of some districts will find themselves represented by senators elected from, and possibly residing in, completely different areas. Generally, holdover senators will inherit new communities in which they did not previously campaign or stand for election.

The proposed constitutional amendment will eliminate all holdover senators or terminate all senatorial terms at the general election once the new apportionment plan takes effect and provides a method to restagger senate terms. Thus, under this proposed amendment, all senate terms will expire as of 2002. Senators whose terms were shortened by the occurrence of the reapportionment year, if re-elected in 2002, will serve four-year terms. All other senators will serve two years, unless the number of senators serving two-year terms exceeds twelve. Should this occur, the number of senators shall be reduced to twelve by random selection as provided by law.

**1992 PROPOSED AMENDMENTS TO THE
HAWAII STATE CONSTITUTION
Page 3**

QUESTION #4: EQUAL REPRESENTATION OF PERMANENT RESIDENTS

"Shall the reapportionment commission use the total number of permanent residents instead of the number of registered voters as the reapportionment base?"

During 1991, the Commission held public hearings and it was recommended that the legislature apportionment base be changed from registered voters to permanent residents. Initially, the Commission had intended that the population base would consist of permanent residents, derived from subtracting minors and nonresident military and their dependents from the total population figures provided in the 1990 Census. However, overwhelming testimony persuaded the Commission to include minors in the count.

The commission chose to use the number of permanent residents as the legislature apportionment base because the number of permanent residents was the base used in the last legislative reapportionment, the Proceedings of the Constitutional Convention of Hawaii in 1968 supported its use, the number of census districts was reduced, and there was no opposing legal precedent. Minors were included in the count of permanent residents because exclusion of children is contrary to Hawaiian tradition and several organizations testified that if minors were excluded, rural areas and certain ethnic groups such as native Hawaiians would be underrepresented.

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VII. Executive Session

The Commission did not go into Executive Session.

VIII. Other Business

Issues to be discussed in the meeting on June 21, 2001:

- Standards and criteria that the Commission should discuss or bring up before decision-making meeting, for the reapportionment plan. For example, the definition of a neighborhood, no splitting of census blocks, etc.
- There will be a report on the meeting with the INS concerning Aliens.

Chairperson Minami wishes hold a decision-making meeting in two weeks, June 28, 2001, on the following issues:

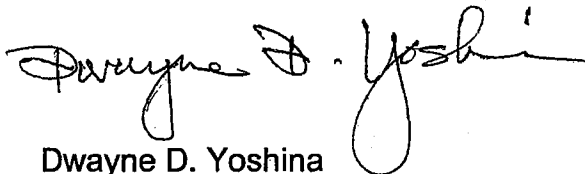
- Population Base
- Non-resident exclusions
- Standards and Criteria
- Adopting of the definitions of the terms presented for contiguity, compactness, and submergence.

IX. Adjournment

The next scheduled meeting is Thursday, June 14, 2001, 2:00 p.m. at the Hawaii State Capitol, Room 329.

With no other business to discuss, Chairperson Minami adjourned the Third Regular Meeting at 4:20 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dwayne D. Yoshina". The signature is fluid and cursive, with a large loop at the end.

Dwayne D. Yoshina
Chief Election Officer
Secretary of the
2001 Reapportionment Commission

June 14, 2001. ESRI and its subcontractors have the information necessary to proceed.

1. Reapportionment/Redistricting Population Base Data Set

Mr. David Rosenbrock reviewed the non-resident information that he presented at the June 14, 2001 Commission meeting and included population totals for each population base data set.

▪ **Permanent Resident Population Base – Potential Exclusions:**

- Sentenced Felons: According to the Department of Public Safety, End of the Month Population Report dated March 31, 2000; the total population of incarcerated sentenced felons is 1,416 persons.
- Non-resident students: According to the information and count received from the various institutes of higher education, the total number of non-resident students is 10,679 students.
- Aliens: Members of the project staff met with representatives of the Immigration Naturalization Services (INS) to discuss the alien population data in Hawaii. The INS Deputy Director, Wayne Wills, offered to provide information of the aliens that are contained in the INS's "CLAIMS" file. The data contains information on aliens that have applied for naturalization and could provide the number of applicants and locate them by ZIP Code. The confidence level of Mr. Wills concerning the "CLAIMS" file was low in the fact that the data may not provide the information that the Reapportionment Commission needs. Mr. Wills was asked to have the information for the staff by June 28, 2001. He was not able to assure that the information will be provided in a timely basis. The INS representatives also indicated that they could not provide a report that would identify or locate the entire alien population.
- Non-resident Military: According to the data received by the Defense Manpower Data Center WEST and the DEERS system the total number of non-resident military and their dependents are as follows:
 - Total non-resident Military Population: 32,566
 - Total non-resident Military Dependents: 41,430
 - Total non-resident Military and Dependents: 73, 996

The State's technical consultant is working with local command offices to refine its count to more accurately reflect the Active Duty population physically present in Hawaii. With this information the Reapportionment Project staff and their technical consultants can

assign the military population to census blocks. They expect to have the refined data next week.

Mr. Rosenbrock reported to the Commission that, except with respect to the alien population, the Reapportionment Project staff and their consultants feel that they have what appears to be the best available information to extract non-resident populations from the total population in each census block of the State of Hawaii.

Commissioner Deron Akiona asked if the Department of Education could aid in determining the number of military dependents. It was brought to attention that not all military personnel have school-aged dependents. It was added that there is a wide demographic of military dependents.

2. Standards and Criteria for Redistricting

Mr. Brian Aburano, the Commission's legal counsel, outlined the proposed standards and criteria for the use by the 2001 Reapportionment Commission. The proposed standards and criteria are divided between the U.S. Congressional and State Legislative Districts.

▪ U.S. Congressional Districts

Standards that shall be followed:

1. The population base used shall be the total population of the State of Hawaii as determined by the last U.S. Census. (*Statutory requirement and required under federal law*)
2. The population in the two congressional districts shall be as nearly equal as possible. (*Statutory requirement and required under federal law*)
3. The congressional districts shall not be drawn so as to unduly favor a person or political party. (*Statutory requirement but not required under federal law*)
4. The congressional districts shall be "contiguous". (*Statutory requirement*)
5. In drawing the congressional districts, no census blocks shall be split. (*Technical staff requirement*)
6. The congressional districts shall not be drawn so as to: (a) deny or abridge a citizen's right to vote based on race, color or membership in a language minority group; or (b) unlawfully discriminate against votes on the basis of race, color or membership in a language minority group. (*Non-technical summary of what is prohibited under the Voting Rights Act and Equal Protection Clause*)

7. All proposed plans submitted to the Commission must conform to specified technical requirements. The technical requirements were specified at the meeting. (*Technical staff requirement*)

Standards that are practicable: (*These are listed in the Hawaii Revised Statutes as standards to be followed "if practicable"- there is some flexibility*)

1. The congressional districts should be geographically "compact".
2. The congressional district boundaries should follow permanent and easily recognized features such as streets, streams, and clear geographic features.
3. The congressional district boundaries should coincide with census tract boundaries.
4. The state legislative districts should be wholly included within the congressional districts.
5. Submergence of an area in a larger district wherein substantially different socio-economic interests predominate should be avoided.

Other standards and criteria:

1. Neighborhoods will generally be determined based on existing elementary school district boundaries and/or neighborhood board district boundaries. (*Commission staff suggestion*)

▪ **State Legislative Districts**

Standards that shall be followed:

1. The population base used shall be the "permanent resident" population of the State of Hawaii. (*This standard is set forth in the State Constitution; however, exactly what constitutes the "permanent resident" population is not specified*)
2. The permanent resident population in each of the 25 state senate districts shall be as nearly equal as possible. (*This standard is set forth in the State Constitution – federal case law has set limits on the permissible deviations among the districts*)
3. The permanent resident population in each of the 51 state house of representative districts shall be as nearly equal as possible. (*This standard is set forth in the State Constitution – federal case law has set limits on the permissible deviations among the districts*)
4. No state legislative district shall be drawn so as to unduly favor a person or political party. (*This standard is set forth in the State Constitution*)
5. Each state legislative district shall be "contiguous". (*This standard is set forth in the State Constitution*)

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6. All state legislative districts shall be single-member districts. Alternatively if multi-member districts are used, no more than four (4) members shall be elected from any state legislative district. *(Deciding single-member or multi-member districts is up to the Commissioners, but if multi-member districting is to be used, the foregoing requirement is set forth in the State Constitution)*
7. In drawing the state legislative districts, no census blocks shall be split. *(Technical staff requirement)*
8. The state legislative districts shall not be drawn so as to: (a) deny or abridge a citizen's right to vote based on race, color or membership in a language minority group; or (b) unlawfully discriminate against voters on the basis of race, color or membership in a language minority group. *(Non-technical summary of what is prohibited under the Voting Rights Act and Equal Protection Clause)*
9. All proposed plans submitted to the Commission must conform to specified technical requirements. The technical requirements were specified at the meeting. *(Technical staff requirement)*

Standards that are practicable: *(These are listed in the State Constitution as standards to be followed "if practicable"- there is some flexibility)*

1. The state legislative districts should be geographically "compact".
2. The state legislative district boundaries should follow permanent and easily recognized features such as streets, streams, and clear geographic features.
3. The state legislative district boundaries should coincide with census tract boundaries.
4. The state legislative districts should be wholly included within the congressional districts.
5. The state house of representative districts should be wholly included within the state senate districts.
6. Submergence of an area in a larger district wherein substantially different socio-economic interests predominate should be avoided.

Other standards and criteria:

1. Neighborhoods shall be determined based on existing elementary school district boundaries and/or neighborhood board district boundaries. *(Commission staff suggestion)*

3. Discussion

Chairperson Wayne Minami asked Mr. Rosenbrock about the purpose of the specified technical requirements. Mr. Rosenbrock explained that those submitting proposed plans need to follow the specified technical format that

allows the technical staff to generate plan(s) and map(s) from the proposed plans accurately and in a timely manner.

Chairperson Minami noted that the standards and criteria are subject to the commissioners' review and comment prior to adoption at next week's meeting.

Commissioner David Rae asked Mr. Aburano what are the actual requirements to follow from the Hawaii State Constitution and HRS and what requirements the Commission has the flexibility to adopt. (**Mr. Aburano identified the constitutional and statutory criteria as shown above in italics*).

Commissioner Rae also had concerns regarding the technical requirements specified by the staff, but indicated that he understood the desire for consistency in the plans submitted to the Commission. Citizens would be unable to submit plans to the Commission because they could not understand or meet the specified technical requirements. He noted that there are many citizens that do not know about computers and how to format the information. He would like to be able to entertain any and all plans from the citizens.

Chairperson Minami asked whether the technical requirements could be moved to the "practicable" section of the criteria since Commissioner Rae mentioned that some of the public would have a difficult time following the technical requirements. Commissioner Frierson mentioned that in order to start drawing their plans the public would have to have a list of the census blocks and population within such blocks, and they would be already halfway through the requirements listed. Commissioner Frierson noted that requiring an electronic file might be a different subject to discuss, but in order to draw the map you had to have the column structure to begin with.

Commissioner Rae also asked whether there is an existing legal requirement to determine the starting point for redistricting. Mr. Aburano said that there is no law that states where the redistricting should begin.

Commissioner Rae expressed concerns regarding the exclusion of non-resident military dependents. Commissioner Rae mentioned that military dependents utilize State services as well as other services provided in the State of Hawaii, pay GET and/or income taxes, and some of them work in Hawaii. He questioned whether they should be disenfranchised from having representation in Hawaii. Commissioner Rae also expressed concern about excluding sentenced felons. There was some discussion by the Commission and Mr. Aburano on these matters.

Commissioner Harold Masumoto requested that criteria track the language in the constitution. He also requested that the constitutional provision that states that no district shall extend beyond the boundaries of any basic island unit be

reinstated in the Commission's criteria. Mr. Minami indicated that the criteria relating to basic island units could be added to the "if practicable" criteria.

Chairperson Minami reiterated to the Commissioners that the handout was given for the Commissioners to review so they have an idea of the issues that they would be making a decision on at the next meeting.

A member of the public commented that the Commission might consider developing a hierarchy of standards for the senate and house districts.

3. Technical and Public Information Committees

Mr. David Rosenbrock read the requirements of the proposed committees as handed out to the Commission members.

- Technical Committee:

- The technical committee will work with the Reapportionment staff to investigate and develop potential reapportionment and redistricting plans for the Commission to consider.
- All plans will be developed within the standards and criteria adopted by the Commission and subject to further directions by the Commission.
- The technical committee will periodically report on its work to the Commission.
- The technical committee will submit any proposed plan to the Commission for deliberation and decision.
- The technical committee will consist of three (3) members: one (1) Democrat, one (1) Republican and the Chairperson.

Chairperson Minami said that a suggestion was made to have alternates for the technical committee, i.e. one (1) Democrat and one (1) Republican alternate. Chairperson Minami suggested adding the alternates as part of the committee's composition.

- Public Information Committee:

- The public information (PI) committee will advise the Commission project staff on the handling and answering of requests for information and questions from the public.
- The PI committee will set up procedures for reviewing and handling public comments and written testimony.
- The PI committee will investigate and make proposals to the Commission for the development and deployment of a web site for the Commission.
- The PI committee will periodically report its findings and recommendations regarding the proposed tasks to the Commission.

- Any significant matters bearing on the Commission's official business shall be brought before the Commission for its deliberation and decision.
- The PI committee will consist of four (4) members: two (2) Democrats and two (2) Republicans.

Chairperson Minami asked the Commission members to review the criteria of the technical and PI committees and to consider which members may possibly serve on those committees. The committees will be voted on at the next meeting.

Commissioner Rae asked when the Reapportionment Commission web site available in order for the public to develop proposed plans. Mr. Rosenbrock explained that a mock up of the web site will be presented at the next meeting. The site will go online after the Public Information committee instructs staff to make the website available.

4. Staggered Senate Terms Staff Briefing

The reapportionment staff gave the Commission members and the public a brief understanding of: (a) how the assignment of the staggered senate terms can be determined using the GIS program, and (b) what the requirements are for this task according to the Amendment to Article IV, Sections 7 and 8 of the Hawaii State Constitution that was passed by the Legislature and the voters in 2000.

- The Commission was given handouts of the Amendment to Article IV, Sections 7 and 8, of the Hawaii State Constitution: To Stagger Senate Terms After Reapportionment – approved by the voters in November 2000. They were also given the Senate and House Judiciary committee reports referring to H.B. No.1 (the Act that proposed the Amendment).

The amendment provides:

- In 2002, after the 2001 Reapportionment, there will be a senatorial election in all 25 Senate Districts.
- To keep staggered terms in the Senate, 12 of the 25 Senate districts will be assigned a two-year term. The remaining Senate districts will receive a four-year term.
- The two-year terms are to be assigned so that the resident population of each Senate district shall have no more than two regular Senate elections for a particular Senate seat within the six-year period beginning in the year 2000 (the even-number year prior to the reapportionment year). In other words, the two-year terms are to be

C. Joint Written Testimony from Common Cause and the League of Women Voters

Written testimony relating to single-member districts and multi-member districts was received from Common Cause and The League of Women Voters. The organizations take no position on this issue; they request that the issue be provided fair and impartial consideration.

V. Decision Making

After all Advisory Councils and public testimony was heard, the Commission went into its decision making process.

The Commissioners decided upon:

- the population base on which apportionment and redistricting would proceed;
- whether districts would be single or multi-member;
- the standards and criteria which would guide the redistricting activities; and
- the establishment of a Technical Committee and a Public Information Committee.

Preliminarily, Commissioner Rae mentioned that the population base to be used by the Commission was an important issue. He wanted to make it clear to the public, as it is clear to the Commission, that in terms of subtracting non-residents from the census which is the base number they have to work with, they are not talking about excluding somebody's right to vote. They have the ability to register wherever they are and cast a vote for somebody. The term disenfranchise is not depriving the right to vote but is whether or not they are to be represented. Commissioner Rae's personal feelings are that he is "a little torn about subtracting people from the population, even though the constitution says 'permanent residents'." The basis that he will go by will be to answer the question: Do we have a very sound number and basis upon which to make that deduction and therefore comply with the Constitution? If it's not so sound and if it's wishy-washy, his tendency will be to have them included in the population base.

A. Population Base

1. Non-resident Students: Chairperson Minami moved that the Reapportionment Commission shall exclude non-resident students from the population base to reapportion and redistrict the 2001 state legislative districts. Commissioner Jill Frierson seconded the motion.

Discussion:

- a. Commissioner Frierson stated for the record that with the State Constitution being the way it is, you have a class of people that declare themselves as non-residents. We put them through some sort of process

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to identify their residency so that we can charge them non-resident tuition or they pay their taxes in another state. She says that they don't really have a choice but to exclude them in the population base.

- b. Commissioner Rae mentioned that this is a case where he doesn't particularly like the way the State Constitution is written for the reasons he previously gave, but he does agree with Commissioner Frierson and will move to exclude them.

Role Call:

Commissioners Akiona, Frierson, Hoo, Kinney, Lum, Masumoto, Rae and Chairperson Minami voted yes to exclude non-resident students from the population base. Commissioner Clifton was absent and excused from voting. With eight (8) affirmative votes and one (1) excused, the motion was carried.

The 2001 Reapportionment Commission will exclude non-resident students from the population base.

- 2. **Sentenced Felons:** Chairperson Minami moved that the Reapportionment Commission shall exclude sentenced felons from the population base to reapportion and redistrict the 2001 state legislative districts. Commissioner Kenny Lum seconded the motion.

Discussion:

- a. Commissioner David Rae mentioned that he will be voting no for the following reasons: (1) Captives are certainly termed residents of the State of Hawaii, (2) felons are certainly our brothers and sisters, we don't import people from somewhere else, (3) we hope that they will become eligible voters at some point in the future. He feels that the question is that does their numbers disproportionately do anything, as Commissioner Frierson pointed out at the last meeting. According to what he understands, there are over 1,400 – 1,500 felons spread over six (6) or seven (7) institutions throughout the state. He feels that it is not a major concern to exclude them.
- b. Commissioner Harold Masumoto mentioned that he was told earlier by the Attorney General's office that felons do not automatically lose their right to vote.

Mr. Aaron Schulaner, Deputy Attorney General, replied in the affirmative. He said that it is a question of whether or not a sentenced felon is incarcerated, or if the sentence was suspended, or an individual is paroled. If the sentence is suspended or if the person is on parole, that individual is allowed to vote. An incarcerated felon is allowed to vote upon

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discharge. Commissioner Kinney asked if it included all degrees of felons. Mr. Schulaner answered affirmatively. He reiterated that while an individual is incarcerated, that person cannot vote.

Commissioner Masumoto asked if there was a record of how many were incarcerated for ten years or more. Mr. Rosenbrock answered that the file that they received separated the number of incarcerated felons and felons that were on probation.

Role Call:

Commissioners Akiona, Frierson, Hoo, Kinney, Lum, Masumoto, Rae and Chairperson Minami voted no to exclude sentenced felons from the population base. Commissioner Clifton was absent and excused from voting. With eight (8) negative votes and one (1) excused, the motion failed.

The 2001 Reapportionment Commission will include sentenced felons in the population base.

3. **Non-resident Military:** Chairperson Minami moved that the Reapportionment Commission shall exclude non-resident military from the population base to reapportion and redistrict the 2001 state legislative districts. Commissioner Rae seconded the motion.

Discussion:

- a. Commissioner Frierson commented for the record that the data that they have from the military seemed to be very sensitively careful to pick military members that have declared to be residents of other states and given the constitution, she can't see how they can argue with that.
- b. Commissioner Rae agreed with Commissioner Frierson but mentioned that he is somewhat sensitive that they may not be counted somewhere else in terms of electors. Commissioner Rae does agree that they have good data for this. He further noted that their location may be disproportionate by a representative district, especially single barracks issues, therefore he will be voting to exclude this population.

Roll Call:

Commissioners Akiona, Frierson, Hoo, Kinney, Lum, Masumoto, Rae and Chairperson Minami voted yes to exclude non-resident military from the population base. Commissioner Clifton was absent and excused from voting. With eight (8) affirmative votes and one (1) excused, the motion was carried.

The 2001 Reapportionment Commission will exclude non-resident military from the population base.

4. Non-resident Military Dependents: Chairperson Minami moved that the Reapportionment Commission shall exclude non-resident military dependents from the population base to reapportion and redistrict the 2001 state legislative districts. Commissioner Frierson seconded the motion.

Discussion:

- a. Commissioner Rae states that he thinks the data is very questionable as to the process in which the data was acquired, having to go through a couple of hoops, and he thinks that there is a problem there. He also feels that the children go to state schools, there are working families where the wife or spouse may have a job in town and be full operative members of the community. Therefore he will be voting to include them.
- b. Chairperson Minami read his statement to the Commission:

In doing our work, we must be mindful of the constitutional requirements as prior reapportionment plans have been ruled unconstitutional. As a result, we have to be very careful in what we do that they do meet constitutional requirements.

With regards to congressional redistricting, we don't allow any exclusions from the census figures.

With state redistricting, however, the Supreme Court has given us some flexibility and seems to allow states to exclude some categories of people, which is what we are considering today. Our constitution says that we will count 'permanent residents'. That term is not defined in the constitution or the statutes, but it seems to distinguish between permanent and temporary residents. Exclusions must be identified because we then have to exclude them from specific census blocks.

"That's the same problem we have with aliens. In trying to exclude them, we run into a problem."

With regard to servicemen who have declared residency in another state, it is easy for us to exclude them. We have that same issue with non-resident students, they have identified to the school a permanent residence other than Hawaii and we should exclude them.

Military dependents of service personnel who have out of state residency are more difficult. The '91 Reapportionment Commission said in its report, that '98% of the dependents will follow the residency of the sponsor'. We have tried to find the source of that conclusion and the staff has been unable to find the basis of that conclusion. These military dependents are residents who use state services, they attend our schools, they pay state taxes if they work and given the preference of the courts to carefully review exclusions, I would lean in favor of

inclusion unless we have a clear basis for exclusion. In the case of military dependents, we have no clear basis for excluding them and I would vote no on this motion.

- c. Commissioner Frierson raised the question that "if we have no clear basis for excluding them, then how did they get the numbers?" Her understanding is that the Social Security Number of the active military was run through various military systems that counted dependents (i.e., the health system, that it was specifically tied to dependents by the SSN number of the active military). It seems that they are here today and gone tomorrow, if we are not encouraged to include non-residents, then you could make an equally good case with these people who follow their families to be non-resident as well. She will be voting in favor to exclude them.

Roll Call:

Commissioners Akiona, Hoo, Kinney, Lum, Masumoto, Rae, and Chairperson Minami voted no to exclude non-resident military dependents from the population base. Commissioner Frierson voted yes to excluding non-resident military dependents to the population base. Commissioner Clifton was absent and excused from voting. With seven (7) negative votes, one (1) affirmative vote, and one (1) excused, the motion failed.

The 2001 Reapportionment Commission will include non-resident military dependents in the population base.

5. Aliens: Chairperson Minami moved that the Reapportionment Commission shall exclude aliens from the population base to reapportion and redistrict the 2001 state legislative districts. Commissioner Akiona seconded the motion.

Discussion:

- a. Commissioner Rae stated that it has been proven difficult to the timeline that is upon them. Where we think the aliens may or may not be in a pluralistic society is problematic. He mentioned that he will be voting no on this issue.
- b. Commissioner Hoo mentioned that she appreciated Mr. Rohlfing's comments today, but in regards to the last comment he made about the bureaucracy of the government. The practical reality is that, based on the time constraints the Commission is faced with, she does not see them being able to get the numbers on time.

Roll Call:

Commissioners Akiona, Frierson, Hoo, Kinney, Lum, Masumoto, Rae and Chairperson Minami voted no to exclude aliens from the population base. Commissioner Clifton was absent and excused from voting. With eight (8) negative votes and one (1) excused, the motion failed.

The 2001 Reapportionment Commission will include aliens in the population base.

B. Single-member v. Multi-member Districts

Chairperson Minami mentioned that the Commission vote on the issue of multi-member districts and therefore forgo the single-member district voting, because the results of the multi-member district will determine the single-member districts.

Chairperson Minami moved that the Reapportionment Commission may use multi-member districts to reapportion and redistrict the 2001 state legislative districts. Commissioner Akiona seconded the motion.

Discussion:

- a. Commissioner Frierson stated that she will be voting for single-member districts, even though she can appreciate some of the plusses of multi-member districts. She mentioned some of the problems of multi-member districts which are: it is a high cost for the candidates to run, the ease in which one might submerge an ethnic or political minority, and the fact that Hawaii has very little government that is very close to the people. Commissioner Frierson noted that we don't have municipal government the way that a lot of mainland areas do. Our state representative districts are the smallest districts in our State and there is an accountability that comes from that. For these reasons, she said that she will be voting for single-member districts.

Roll Call:

Commissioners Akiona, Frierson, Hoo, Kinney, Lum, Masumoto, Rae and Chairperson Minami voted no to multi-member districts to reapportion the state legislative districts. Commissioner Clifton was absent and excused from voting. With eight (8) negative votes and one (1) excused, the motion failed.

The 2001 Reapportionment Commission may not use multi-member districts.

C. Standards and Criteria

Chairperson Minami moved that the Reapportionment Commission shall adopt the attached Standards and Criteria for the 2001 reapportionment and redistricting. Commissioner Akiona seconded the motion.

Discussion:

Chairperson Minami mentioned to the Commission that there were a few changes made to the Standards and Criteria since the last meeting:

1. One change broadens the ability of the public to submit testimony or comments to the Commission (pg. 2, bullet 3).
2. Under the "if practicable" section, no district shall extend beyond the boundaries of any basic island unit was added in as well as an asterisk which includes language from the Deputy Attorney General, indicating that there are constitutional limitations in following that criteria (pg. 3).
3. Based on the decisions by the Commission today, the population base will be adjusted and changed. It will be amended to reflect today's decisions.

Commissioner Rae pointed out that although the criteria states that the districts shall be within a district (i.e., House districts within Senate districts), that it is not going to happen because of the odd number of districts.

Roll Call:

Commissioners Akiona, Frierson, Hoo, Kinney, Lum, Masumoto, Rae, and Chairperson Minami voted yes to adopt the 2001 Reapportionment Commission Standards and Criteria, as amended by today's decisions on the population base that will be used for the Reapportionment Commission. Commissioner Clifton was absent and excused from voting. With eight (8) affirmative votes and one (1) excused, the motion carried.

The 2001 Reapportionment Commission will follow the adopted reapportionment standards and criteria.

D. Formation of Committees

1. Technical Committee: Chairperson Minami moved that the Reapportionment Commission shall form a technical committee as proposed at the 6/21/01 Commission meeting for the 2001 reapportionment and redistricting process.

Discussion:

- a. Chairperson Minami mentioned that the committee will consist of three members; one (1) Democrat, one (1) Republican and the Chairperson. He said that the proposal would be amended so that two alternates will be added to the composition of the technical committee.

Oahu Apportionment Advisory Council

RECOMMENDATION

OAAC recommends to the 2011 Hawaii Reapportionment Commission that population counts to be used in redistricting the Hawaii State House and Senate be set to match exactly the enumeration for redistricting the United States House of Representatives (1,360,301 persons).

Seen in proper context, this is the most important act the Reapportionment Commission could take in determining apportionment for the State of Hawaii.

Consider:

- If all States were to exclude their military and dependents from apportionment, an extraordinarily large proportion of these persons would be disenfranchised from representation in state legislatures, county and city councils, boards of supervisors and virtually all other locally elected lawmaking bodies in the country. At this writing all other states except Kansas count active duty military and their dependents, for the purposes of drawing reapportionment lines.

- By law the federal apportionment includes resident military and dependents for Congressional redistricting. In the census, those who are counted as living in Hawaii are not counted in any other state.

- There is a constant presence of these individuals in Hawaii numbering some 70-odd thousand and, despite rotation, that approximate number remain resident here at all times.

- If one lives here, whether stationed, schooled or jailed, one is affected by laws enacted here. If a proposed law offends a "disenfranchised" community, it can safely be ignored because it lacks representation. People counted as living here for the census are not counted as living elsewhere. These individuals are entitled to representation in our legislature.

- They pay taxes here. They attend schools here. They travel the roads, enjoy the parks, beaches and other recreational facilities. They dine out. They go to libraries and movie theaters. They participate in civic life and innumerable community events.

- It is said that many do not vote here. Well, many born, raised, schooled, and employed here have never registered to vote, have never voted and never will vote. Some never vote for philosophical reasons; some to escape tax authorities; some to escape jury service. These individuals are represented.

- Furthermore, the "extraction" of certain types of persons from the census counts is an "uncertain" proposition and leads to arbitrary and inexact results. Elections office staff have explained the difficulty and guess work involved in this exercise.

- The fair and equitable solution is one of inclusion.